

CIVIL SERVICE COMMISSION MINUTES

JUNE 16, 2004

A meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Marc Sandstrom
A.Y. Casillas
Gordon Austin
Barry I. Newman
Francesca Krauel

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

**Approved
Civil Service Commission**

July 21, 2004

COUNTY OF SAN DIEGO
CIVIL SERVICE COMMISSION MINUTES
JUNE 16, 2004

2:00 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California 92101

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
5,6,7,13,14		8	

COMMENTS: Motion by Newman to approve all items not held for discussion; seconded by Casillas. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this
location to hear the announcement of the
closed session agenda.

A. Commissioner Sandstrom: Everett Bobbitt, Esq. on behalf of **2004-05***, Deputy Sheriff-Detentions/Court Services, appealing an Order of Pay Step Reduction and Charges from the Sheriff's Department.

B. Commissioner Austin: Veronica Aguilar, Esq., on behalf of **Guy Munshower**, former Building Inspector II, appealing an Order of Removal and Charges from the Department of Planning and Land Use.

C. Commissioner Casillas: Donna Clark-Richardson, SEIU Local 2028, on behalf of **Richard Pesin**, former Air Quality Inspector I, appealing an Order of Removal and Charges from the Air Pollution Control District.

D. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Case Number: GIC 829866

E. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 1 Case (2004-03*)

OPEN SESSION AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and approved by the Commission President.

MINUTES

1. Approval of the Minutes of the regular meeting of May 19, 2004.

Approved.

2. Approval of the Minutes of the special meeting of May 24, 2004.

Approved.

CONFIRMATION OF ASSIGNMENTS

3. Commissioner Austin: Donna Clark-Richardson, SEIU Local 2028, on behalf of **Renda Washington**, former Detention Information Assistant, appealing an Order to Terminate and Charges from the Sheriff's Department.

Confirmed.

4. Commissioner Sandstrom: Richard Pinckard, Esq., on behalf of **2004-07***, former Deputy Sheriff-Detentions/Court Services, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

DISCIPLINES

Findings

5. Commissioner Sandstrom: Everett Bobbitt, Esq. on behalf of **2004-05***, Deputy Sheriff-Detentions/Court Services, appealing an Order of Pay Step Reduction and Charges from the Sheriff's Department. (Continued from the Commission meeting on May 19, 2004.)

FINDINGS AND RECOMMENDATIONS:

The matter of the appeal of 2004-05 from a written order of pay step reduction and charges was presented to the Civil Service Commission. The Commission appointed Marc Sandstrom to hear the appeal and submit findings and recommendations to the Commission.

Prior to the commencement of the hearing the parties entered into a Stipulation. The hearing officer reviewed the stipulated agreement and withdrawal and determined that the public would be best served if the Commission approved the agreement and accepted the withdrawal of appeal. It is therefore recommended that the stipulated agreement and the personnel actions contained within it be approved by the Civil Service Commission; that the Civil Service Commission accept

the withdrawal of 2004-05's appeal of the Order of Pay Step Reduction and Charges; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Sandstrom to approve Findings and Recommendations; seconded by Newman. Carried.

6. Commissioner Austin: Veronica Aguilar, Esq., on behalf of **Guy Munshower**, former Building Inspector II, appealing an Order of Removal and Charges from the Department of Planning and Land Use.

FINDINGS AND RECOMMENDATIONS:

The matter of the Appeal of Guy Munshower from a written order of removal and charges in the Department of Planning and Land Use was presented to the Civil Service Commission. The Commission appointed Gordon Austin to hear the appeal and submit findings and recommendations to the Commission. Prior to the commencement of the hearing, the parties entered into a stipulation.

As part of the agreement, the originally imposed order of removal and charges is rescinded. Additionally, Mr. Munshower submitted a letter of withdrawal.

The hearing officer reviewed the stipulated agreement and the letter of withdrawal and has determined that the County government would be best served if the Commission approve the agreement and accept the withdrawal of appeal.

It is therefore recommended that the stipulated agreement and the personnel actions contained within it be approved by the Civil Service Commission; that the Civil Service Commission accept the withdrawal of Appellant's appeal of the Order of Removal and Charges; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Austin to approve Findings and Recommendations; seconded by Newman. Carried.

7. Commissioner Casillas: Donna Clark-Richardson, SEIU Local 2028, on behalf of **Richard Pesin**, former Air Quality Inspector I, appealing an Order of Removal and Charges from the Air Pollution Control District.

FINDINGS AND RECOMMENDATIONS:

The matter of the Appeal of Richard Pesin from a written order of removal and charges in Air Pollution Control District was presented to the Civil Service Commission. The Commission appointed A.Y. Casillas to hear the appeal and submit findings and recommendations to the Commission. Prior to the commencement of the hearing, the parties entered into a stipulation.

As part of the agreement, the originally imposed order of removal and charges is rescinded. Additionally, Mr. Pesin submitted a letter of withdrawal.

The hearing officer reviewed the stipulated agreement and the letter of withdrawal and has determined that the County government would be best served if the Commission approve the agreement and accept the withdrawal of appeal.

It is therefore recommended that the stipulated agreement and the personnel actions contained within it be approved by the Civil Service Commission; that the Civil Service Commission accept the withdrawal of Appellant's appeal of the Order of Removal and Charges; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Casillas to approve Findings and Recommendations; seconded by Newman. Carried.

DISCRIMINATION

Complaints

8. **Gustavo Godoy**, Project Manager, Department of Parks and Recreation, alleging racial discrimination by the Department of Parks and Recreation. (Continued from the Commission meeting on May 19, 2004.)

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back. (See item #10 below.)

Staff recommendation approved. Commissioner Krauel assigned.

Findings

9. Commissioner Krauel: **Tommy Johnson**, Personnel Aide, Department of General Services, alleging national origin, color, race and sex discrimination by the Health and Human Services Agency (HHSA).

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on April 7, 2004, the Commission appointed Francesca Krauel to investigate the complaint submitted by Complainant. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that there was no evidence to support Employee's allegation of national origin, color, race and sex discrimination, and that probable cause that a violation of discrimination laws occurred was not established in this matter. It is therefore recommended that this complaint be denied; that the Commission approve and file this report with the appended OIA Final Investigative Report with a findings of no probable cause that Complainant has been discriminated against on any basis protected by law; and that the proposed

decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Krauel to approve Findings and Recommendations; seconded by Newman. Carried.

SELECTION PROCESS

Complaints

10. **Gustavo Godoy**, Project Manager, Department of Parks and Recreation, appealing his non-selection for the classification of Senior Park Project Manager by the Department of Parks and Recreation. (Continued from the Commission meeting on May 19, 2004.)

RECOMMENDATION: Hold in abeyance pending the outcome of the discrimination investigation. (See item #8 above.)

Staff recommendation approved.

Findings

11. **Brian Haskins**, appeal of removal of his name by the Department of Human Resources (DHR) from the employment list for Deputy Sheriff-Detentions/Courts.

12. **Andrijana Jurisaga**, appeal of removal of her name by the DHR from the employment list for Deputy Sheriff-Detentions/Courts.

RECOMMENDATION: Ratify Item Nos. 11 & 12. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item Nos. 11 and 12 ratified.

OTHER MATTERS

Seal Performance Appraisal

13. **Ibrahim Barhoumi**, Project Manager, Department of Public Works, requesting an investigation of alleged violations of Civil Service Rule V by the Department of Public Works and requesting the sealing of a Performance Appraisal for the period July 18, 2003 to March 12, 2004.

RECOMMENDATION: Consider all written and verbal input.

Mr. Barhoumi addressed the Commission alleging technical violations by the Department of Public Works in issuing the above-referenced performance appraisal.

Laurie Szymanski, Personnel Officer with DPW stated that the integrity of the process was not compromised in any way. After a discussion period among the Commissioners, Mr. Barhoumi and Ms. Szymanski, Commissioner Newman stated that the rule is discretionary, not mandatory. According to Commissioner Newman, the test in his mind is whether or not the employee has been adversely prejudiced in any way. Several Commissioner's voiced that a minor time violation did

not show good cause why a year's evaluation should be stricken from an employee's record.

Motion by Newman to deny request to seal performance appraisal; seconded by Austin. Carried.

AYES: Sandstrom, Casillas, Austin, Newman
NOES: None
ABSENTIONS: Krauel
ABSENT: None

Extension of Temporary Appointments

14. Department of Planning and Land Use

1 Building Inspector II (Robert Maronde)

RECOMMENDATION: Ratify.

Item No. 14 ratified.

15. Civil Service Commission 2004-06 Operational Plan

President Sandstrom asked that the Commission approve the CAO proposed budget.

Motion by Newman to accept 2004-06 Operational Plan; seconded by Krauel. Carried.

16. Hiring of Outside Legal Counsel to assist hearing officers

President Sandstrom asked the Commission to approve the re-hiring of legal counsel to assist at Commission hearings. He stated that such legal counsel is necessary for the Commission's decisions to be fair and legally sound. Said contract is for 1 year at \$150/per hour.

Motion by Newman to approve hiring of outside legal counsel; seconded by Krauel. Carried.

17. Executive Officer Classification: Salary and Recruitment

President Sandstrom asked the Commission to consider and move forward with the recruitment of a new EO. He states that when an acceptable candidate is found, CSC will be allowed to go back to the appropriate authority to augment the budget for that new EO for a portion of 04-05, as well as any overlapping time the Commission deems appropriate.

Mary Grillo, Executive Director of SEIU Local 2028, expressed concern over this process due to the approximate 400 lay off notices that were sent out county-wide. She stated that this Commission continues to function adequately with the current part-time EO and finds the Commission's action to hire a full-time EO irresponsible at this crucial time. She asked the Commission to postpone hiring a new EO for at least another year.

Charisma de los Reyes, currently working in Child Support Services, explained that she was one of the employees targeted for lay off. She explained that the Department has a very low morale at this point, and asked the Commission to review its decision and not hire a new full-time EO at this time.

Commissioner Newman stated that the Commission has an obligation to this County and the public to protect the CSC system and will continue to move forward with recruiting a full time Executive Officer.

Commissioner Austin voiced that he will vote against the recruitment of a full-time EO this year. He stated that there has been no problem with the way the Commission runs and is serviced by the current staff. The Commission has not been criticized in any way and in fact has been praised for its efficiency and fairness. He believes that postponement of the hiring process is in the County's best interest. Commissioner Casillas concurred.

Motion by Newman to go forward with recruitment of Executive Officer; seconded by Krauel. Carried.

AYES:	Sandstrom, Newman, Krauel
NOES:	Austin, Casillas
ABSTENTIONS:	None
ABSENT:	None

Charles Nares, Deputy Director of DHR, was asked to make a few minor changes on the draft recruitment bulletin. Also, the recruitment deadline was moved to July 23, 2004.

18. Leave Briefing: DHR and Commission Staff

At the request of the Commission, in a question/answer forum, Brandy Winterbottom-Whitney from the Department of Human Resources gave a brief presentation on various County "leaves". Larry Cook, Executive Officer, gave a brief presentation on "compulsory leave".

19. Public Input.

ADJOURNMENT: 4:45 p.m.

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION: JULY 21, 2004

* The identity of the peace officer is held confidential per Penal Code Section 832.7 (San Diego Police Officers' Association, et al. v. City of San Diego Civil Service Commission).